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Docket Number (Optional)  
5259-000070/US/NP**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

On \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number  
10/588,404Filed  
August 3, 2006First Named Inventor  
Masaki KitaharaArt Unit  
2482Examiner  
Hee-Yong Kim

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

Applicant hereby petitions under the provisions of 37 C.F.R. § 1.136(a) for an extension of time in which to file the response to the Advisory Action and includes a fee as set forth in 37 C.F.R. § 1.17(a) for such extension of time.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor

/Gregory A. Stobbs/

Signature

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

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February 4, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

Total of \_\_\_\_\_ forms are submitted

16394181.1

**REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Claims 1, 3-8, 10-14, 16, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimata et al., "System Design for Free Viewpoint Video Communication," Proceedings of The Fourth International Conference on Computer and Information Technology (CIT'04), IEEE Computer Society, September 14, 2004, pp. 52-59 ("Kimata") in view of Puri et al., "Video Coding with Motion-Compensated Interpolation for CD-ROM Applications," Signal Processing: Image Communication 2, 1990, Elsevier Science Publishers B.V., pp. 127-144 ("Puri"). Claims 2 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimata in view of Puri, and further in view of Eifrig (U.S. Pat. No. 5,991,447; "Eifrig").

Applicants respectfully submit that the Examiner's application of the Puri and Kimata references to claims 1-14, 16 and 18 is clearly erroneous due, in part, to a clear factual error (discussed below), so as to provide a basis for submission of a pre-appeal brief request for review.

Puri

In the Advisory Action, regarding claims 14, 16 and 18, the Examiner states that Puri discloses MCIE (motion compensated interpolation error) and determines selective encoding of a frame, based on the significance of MCIE; and that it was obvious to apply the same methodology to GOP based encoding in Kimata. However, the applicants utilize MCPE, not MCIE. Thus, it would seem that the Examiner is confusing

MCIE for MCPE. The former (MCIE) relates to *interpolation* errors; whereas the later (MCPE) relates to *prediction* error.

As asserted previously, applicants maintain that in the Puri method, the target to be encoded or not encoded is not MCPE (motion-compensated prediction error), but the above MCIE (which is *additional* information), and MCIE is encoded only when it is significant. Thus, Puri is not doing at all what the applicants are doing, and the Examiner's conclusion is clearly erroneous and without factual basis.

In the Puri case (using MCIE which is additional information for an interpolated frame), the interpolated frame itself completely differs from "each GOP in an input image". Therefore, applicants submit that for the skilled person, it would not be obvious to apply the method of Puri to Kimata. Quite simply, a combining of these references would not produce the present invention.

Moreover, even to the extent Kimata discloses interpolation of an image belonging to a GOP based on another GOP, the distinctive features of the present invention, namely:

"whether or not it is encoded is each GOP in an input image, and determination for whether or not it is encoded is performed based on a determination whether or not the image belonging to the relevant GOP can be generated on the decoding side without using encoded data of the relevant image"

are nonetheless neither disclosed nor suggested in either of the cited references. Therefore, the Examiner's application of Puri and Kimata to claims 1-14, 16 and 18 is clearly erroneous.

In view of the foregoing, Applicant respectfully requests that the Panel reopen the prosecution of this application and instruct the Examiner to issue a new Office Action in this matter. Prompt and favorable consideration of this request is respectfully requested.

GAS/dec

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